IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1614 OF 2004

WITH

A.O.No.(St)33130 of 2004

1. Mr.Nalin Vadilal Parekh

and Ors. ... Applicants

V/s

M/s Hindustan Lever Ltd ... Respondents

Shri Janak Dwarkadas Sr.Counsel with Mr.H.N.Thakore,Ms Sona Singh and Ms Agnes A. Barudia i/b M/s Thakore Jariwala and Associates for Applicants

Mr.J.B.Chinai with Mr.Sanjay Jain i/b M/s Crawford Balley and Co. for Respondents

CORAM:S.R.SATHE,J.

DATED:29th Dec.2004

P.C.:-

. Heard both parties at length.

. However at the end of the day the learned Advocate for the Applicants submitted that as the Respondent company has already received the post ballot papers and they have also scrutinised the

same they should atleast be directed not to declare the result of postal ballot papers. In fact, during the course of argument the learned Advocate for the Respondent Company submitted that they have actually received the ballot papers and the same have been scrutinized and about 97% share holders have supported the Resolution. Thus it seems that now only formal result is to be declared on 30-12-2004 at 3-00 p.m., as scheduled. Admittedly, even after declaration of the said resolution it may not be possible to execute the sale deed immediately as certain formalities will have to be carried and necessary permissions from some other authorities will have to be obtained.

. Considering the above position, it was suggested that even if the result is declared as scheduled and sale is not completed till preliminary issue framed by the City Civil Court is decided, interest of both the parties will be protected.

. The learned Advocate for the Respondent company therefore made a statement at Bar that even if the results are declared tomorrow i.e. 30-12-2004, the Respondent Company shall not complete the sale/assignment/transfer till the issue with regard to jurisdiction which is framed by the City Civil Court, Bombay is decided.

. Both the learned Advocates submitted that under such circumstances the order passed on Stamp No.5858 of 2004 by the City Civil Court on 22-12-2004 whereby unregistered Notice of Motion was dismissed be set aside and the said unregistered Notice of Motion be restored and City Civil Court, Bombay be directed to decide the same along with issue under Section 9A of C.P.C. which is already framed by the said Court. The statements of the learned Advocates are accepted and the order of dismissing unregistered Notice of Motion on 22-12-2004 is set aside and the City Civil Court, Bombay is directed to decide the said Notice of Motion on merits along with preliminary issue framed on 22-12-2004 under Section 9A of C.P.C., on or before 31-1-2005.

. As the above mentioned order is passed in view of the statement made by learned Advocate for the Respondent that they will not complete the sale transaction till particular event, mentioned above, the Respondents shall not claim any equity for this order.

. A.O. and Civil Application are disposed of accordingly.

. Parties to act on the copy of this order duly authenticated by Sheristedar of the Court.

(S.R.SATHE,J.)